

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DAVID MCGLYNN,

Plaintiff,

-v-

TOWER INVESTORS.COM, INC.,

Defendants.

19 Civ. 89 (PAE)

ORDER OF DEFAULT  
JUDGMENT

PAUL A. ENGELMAYER, District Judge:

On January 3, 2019, plaintiff commenced this action. Dkt. 1. On May 23, 2019, the Court issued an Order to Show Cause why it should not be dismissed for failure to prosecute. Dkt. 11. On June 17, 2019, plaintiff filed a motion for default judgment against defendant. Dkts. 14–18. On June 17, 2019, counsel David Rehns, Esq., appeared on behalf of defendant. Dkt. 20. The motion for default was thereafter adjourned *sine die*, and the parties stipulated to several extensions of time for defendant to respond to the complaint. Dkts. 23–27.

On September 25, 2019, Mr. Rehns moved to withdraw as counsel for defendant. Dkt. 28. The next day, the Court issued an order giving defendant until October 17, 2019 to obtain new counsel. Dkt. 29. The Court clearly stated that failure to do so would again put defendant at risk of a default judgment. *Id.* at 1.

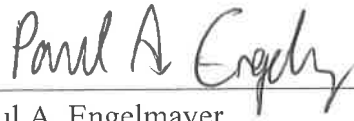
New counsel for defendant did not appear and plaintiff failed to move for a default judgment for 10 months. On July 28, 2020, the Court issued an Order to Show Cause for why the case should not be dismissed for failure to prosecute. Dkt. 32. On August 3, 2020, plaintiff requested leave of the Court to initiate default proceedings. Dkt. 33. On August 4, 2020, this Court ordered the defendant to obtain new counsel by September 4, 2020, or risk a default

judgment. Dkt. 34; *see Lattanzio v. COMTA*, 481 F.3d 137, 139 (2d Cir. 2007) (explaining that a corporate defendant requires representation and cannot represent itself pro se). On September 14, 2020, plaintiff obtained a Clerk's Certificate of Default, and on September 18, filed a Motion for Default Judgment. Dkts. 39, 40. On September 22, 2020, the Court issued another Order to Show Cause, requiring the plaintiff, if it wished to oppose the motion, to have its counsel enter a notice of appearance and file an opposition by October 19, 2020. Dkt. 46. That same day the plaintiff served the defendant with the Court's September 22, 2020 order and associated default papers. Dkt. 47.

The Court has reviewed plaintiff's motion for default judgment pursuant to Federal Rule of Civil Procedure 55(b), Dkt. 40, and plaintiff's supporting affidavit, Dkt. 42. Because proof of service has been filed, Towers Investors.com has not answered the complaint, the time for answering the complaint has expired, and Towers Investors.com failed to appear to contest entry of a default judgment, the Court enters a default judgment for plaintiff against defendant Towers Investors.com.

The Court, by separate order, will commission an inquest into damages. The Court respectfully directs the Clerk of the Court to terminate the motion pending at docket 40.

SO ORDERED.

  
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Paul A. Engelmayer  
United States District Judge

Dated: October 22, 2020  
New York, New York